

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HARVEY PATRICK SHORT,	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	CIVIL ACTION NO. 19-CV-3020
	:	
DAVID BYRNE, <i>et al.</i> ,	:	
<i>Defendants.</i>	:	

ORDER

AND NOW, this 14th day of August, 2019, upon consideration of Plaintiff Harvey Patrick Short's Motion to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 5), and his *pro se* Complaint (ECF No. 2), which raises claims under 42 U.S.C. § 1983, it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Harvey Patrick Short, #ME-6628, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court hereby directs the Superintendent of SCI Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Short's inmate account; or (b) the average monthly balance in Short's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Short's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate

official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Short's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this order to the Superintendent of SCI Phoenix.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED with prejudice** as to Defendant Officer Kenney.

6. The Complaint is **DISMISSED without prejudice** as to Defendants David Byrne, Sergeant Davis, Officer Tariff Hall, and Mike Moore.

7. Short is given thirty (30) days to file an amended complaint in the instant case as to his claims that have not been dismissed with prejudice. Any amended complaint shall (1) identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, (2) be a complete document that includes all claims upon which Short seeks to proceed, and (3) state the basis for Short's claims against each defendant. Short should provide enough information for the Court to understand what happened to him. When drafting his amended complaint, Short should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. The Clerk of Court shall send Short a blank copy of the Court's form

complaint to be used by a prisoner filing a civil rights action bearing the above civil action number. Short may use this form to file his amended complaint in the instant case if he chooses to do so.

9. If Short fails to file an amended complaint in accordance with paragraph seven (7) of this Order, his case will proceed against Defendants GEO Group, Inc., Mariel, Krester, Francis, and Oscar only. Short may also notify the Court that he desires to proceed only against those Defendants, and his original Complaint will be ordered served at that time.

BY THE COURT:

/s/ Gerald J. Pappert

GERALD J. PAPPERT, J.